

THE STATE OF NEW HAMPSHIRE

SUPREME COURT

In Case No. 2003-0665, In re Juvenile 2003-0665-A; In re Juvenile 2003-0665-B; In re Juvenile 2003-0665-C, the court on December 10, 2004, issued the following order:

The appellant, the mother of Juveniles 2003-0665-A, 2003-0665-B, and 2003-0665-C (children), appeals an order of the trial court terminating her parental rights. She contends that the trial court erred when it: (1) concluded that she would resume an abusive relationship with the father of the children or another abusive person; (2) failed to order reunification after finding that she had complied with the dispositional orders of the court; (3) found that her live-in relationship with the father of the children had continued for thirteen months after the finding of neglect; and (4) terminated her parental rights when the consent decree contained no requirement that she sever her relationship with the father of the children. We affirm.

“Before a court may order the termination of a parent’s rights, the petitioning party must prove a statutory ground for termination beyond a reasonable doubt.” In re Antonio W., 147 N.H. 408, 412 (2002). One such ground is failure to correct the conditions leading to a finding of neglect under RSA chapter 169-C.” Id. Once the court has made this finding, it must then consider whether termination is in the child’s best interest. Id. We will not disturb its decision unless it is unsupported by the evidence or plainly erroneous as a matter of law. Id.

In this case, the condition leading to the finding of neglect was an inability to protect the physical and emotional health of the children. The first two issues raised by the mother relate to findings made by the family division in its order following a permanency hearing in September 2002. Based upon the record before us, we conclude that appeal of those issues is untimely. See In re Diane R., 146 N.H. 676, 678-79 (2001) (recognizing petition for certiorari as available avenue of review for post-final dispositional orders and concluding that thirty-day appeal period applies in such cases).

The mother also contends that the trial court erred in finding that she had continued to reside with the father of her children for thirteen months after the finding of neglect. The trial court found that the mother had failed to terminate her relationship with the father of the children until fourteen months after the finding of neglect and remained engaged to him throughout that period. The finding of neglect and the conditions that required correction focused upon the mother’s inability to protect the physical and emotional health of the children,

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including protection from physical violence. The violence was inflicted by the children's father. The record supports the trial court's finding that the mother failed to terminate her relationship with the father until after the statutory period for correction had run. That the consent decree in the neglect proceeding contained "no mandate" that she sever her relationship with the father does not affect our conclusion that the evidence supports the trial court's finding that the mother failed to correct the conditions leading to the finding of neglect.

Affirmed.

BRODERICK, C.J., and NADEAU and DALIANIS, JJ., concurred.

**Eileen Fox,
Clerk**

Distribution:

Clerk, Family Division at Lebanon 2003-T-001, 004, 005

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